

Order

Michigan Supreme Court
Lansing, Michigan

May 30, 2008

Clifford W. Taylor,
Chief Justice

135778

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

ROBERT E. BENEFIEL,
Plaintiff-Appellee,

v

SC: 135778
COA: 273664
Livingston CC: 05-021742-NI

AUTO-OWNERS INSURANCE COMPANY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the December 27, 2007 judgment of the Court of Appeals is considered, and it is GRANTED. The parties shall include among the issues to be briefed: (1) whether the Court of Appeals correctly held that review of a plaintiff's "whole life" in order to determine the plaintiff's "normal lifestyle" should include the time period before the onset of pre-existing impairments if those impairments are not permanent, and if so, which party bears the burden of establishing that the pre-existing impairments are not permanent; (2) whether the Court of Appeals correctly held that, in this case, the appropriate time period under consideration included the time period before the plaintiff's 2002 accident; (3) whether, in reviewing the Livingston Circuit Court's decision granting the defendant's motion for summary disposition, it was proper for the Court of Appeals to both reverse the trial court's decision and to hold that the plaintiff established a serious impairment as a matter of law; and (4) whether the Court of Appeals correctly instructed the trial court that if the jury finds it impossible to differentiate between the damages caused by the first and second accidents, the defendant must be deemed responsible for all the injuries and damages sustained by the plaintiff, despite the fact that the plaintiff brought and settled a prior suit involving the first accident.

The Michigan Association for Justice, the Coalition Protecting Auto No-Fault, the Michigan Defense Trial Counsel, Inc. and the Insurance Institute of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 30, 2008

Corbin R. Davis

Clerk